Remarks:

Claims 1-46 are pending in this application.

The Examiner has rejected independent claims 1-3, 7-10, 32-37 and 40-42 under 35 U.S.C. 102(a) as being unpatentable over US Patent No. 4,484,030 to Gavrilovich et al. (hereinafter "Gavrilovich"). The applicant respectfully disagrees.

In order to establish that any claim is obvious the Examiner must identify 1) all of the claimed elements in the prior art; 2) a reason or motivation to modify or combine these elements to arrive at the claimed invention; and 3) a reasonably likelihood of success (See M.P.E.P. 2141). It is submitted that the Examiner has failed to establish at least the first of these conditions.

Claim 1 requires "if said utilization of said trunk exceeds a first thresbold, initializing a first degree of adaptation." The Examiner admits that Gavrilovich only implies different degrees of adaptation and takes the position that considering a trunk "defective" may be read as the claimed "first degree of adaptation". However, it is respectfully submitted that the Examiner has failed to consider the conditions under which a trunk is considered defective. In particular, a functional circuit (which is equated to trunk in col. 1, lines 24-28) may be identified as defective under one of three conditions (see col. 3, lines 7-16 and col. 3, lines 35-38), none of which relate to utilization of a functional circuit exceeding a thresbold. Indeed, one of the identified conditions relates to utilization of a given functional circuit being substantially less than utilization of other function circuits in a group of functional circuits that includes the given functional circuit.

Advantageously, the method of claim 1 allows for the routing of connections through a connection-oriented data network to adaptively react to varying degrees of over utilization of fully functioning trunks. In contrast, it appears that Gavrilovich is concerned with identifying defective trunks.

It is submitted that all the elements claimed in claim 1 are not found in Gavrilovich. Withdrawal of the rejection of claim 1 and claims 2-31, dependent, either directly or indirectly, on claim 1, is therefore requested.

Furthermore, as claims 32 and 33 claim a path administrator for carrying out the method of claim 1 and claim 40 claims a computer readable medium containing instructions allowing a processor to carry out the method of claim 1, it is submitted that Gavrilovich does not disclose all of the elements of claims 32, 33 or 40. Without such a disclosure, Gavrilovich cannot render obvious independent claims 32, 33 and 40. Withdrawal of the rejection of claims 32, 33 and 40, and claims 34-37, 41 and 42 dependent thereon, in view of Gavrilovich is therefore respectfully requested.

The Examiner has rejected independent claims 1, 32, 33 and 40 under 35 U.S.C. 102(a) as being unpatentable over US Patent No. 4,669,113 to Ash et al. (hereinafter "Ash"). The applicant respectfully disagrees.

In brief, the method of claim 1 requires "receiving an indication of a utilization *of a trunk*" and taking an action "if said utilization *of said trunk* exceeds a first threshold" (emphasis added). It should be noted that the method of claim 1 is performed at a switch, which has local information about the utilization of a particular trunk. In contrast, the adaptation of a network to various traffic patterns is performed in Ash at an integrated network controller 100 that receives network information from switches in the network 411. Such network information includes a number of idle trunks in the network 411, a number of idle trunks in each link 11, 12, and a blocking level experienced by each originating switch – terminating switch (OS-TS) pair.

The Examiner has indicated that the process, in Ash, of reserving trunks on a link, which process is based on traffic intensity between the switches directly connected to the link and which process is performed only when a high blocking indicator exceeds a threshold, reads on "if said utilization of said trunk exceeds a first threshold, initializing a first degree of adaptation". However, it is respectfully submitted that traffic intensity between the switches is measured as the number of idle trunks in the link (col. 13, lines 42-45) and not utilization of a single trunk, as required by claim 1. It is further submitted that the high blocking indicator (i.e., the value that is compared to a threshold) is related to a number of calls that are blocked over a time interval for an OS-TS pair (col. 13, lines 12-21). As such, the high blocking indicator is not a measure of the utilization of a single trunk as is required by claim 1 to be compared to a threshold.

The Examiner contends that it would have been obvious to one of ordinary skill in the art at the time the invention was made that it is necessary to monitor the utilization of each trunk in a group of trunks. However, it is respectfully submitted that, as far as the integrated network controller 100 of Ash is concerned, a trunk is either "in service" or idle. There is no disclosure of the measuring of the utilization of a single trunk.

It is submitted, then, that Ash does not disclose all of the elements of claim 1. Furthermore, as claims 32 and 33 cite a path administrator for carrying out the method of claim 1 and claim 40 cites a computer readable medium containing instructions allowing a processor to carry out the method of claim 1, it is submitted that Ash does not disclose all of the elements of claims 32, 33 or 40. Without such a disclosure, Ash cannot render obvious independent claims 1, 32, 33 and 40. Withdrawal of the rejection of claims 1, 32, 33 and 40 in view of Ash is therefore respectfully requested.

The Examiner has rejected claims 4-6, 14-29 and 38 under 35 U.S.C. 103(a) as being unpatentable over Gavrilovich in view of Ash. The applicant respectfully disagrees.

As outlined hereinbefore, it is submitted that neither Gavrilovich nor Ash disclose all the elements of claims 1, 33 and 40 on which claims 4-6, 14-29 and 38 depend, either directly or indirectly. The lack of disclosure of all the elements of claims 1, 33 and 40 means that neither Gavrilovich, nor Ash, nor a combination of Gavrilovich and Ash can render claims 4-6, 14-29 and 38 obvious. Withdrawal of the rejection of claims 4-6, 14-29 and 38 over Gavrilovich in view of Ash is therefore respectfully requested.

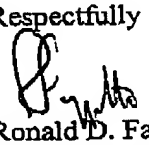
The Examiner has rejected claims 11-13, 30, 31, 38 and 43-46 under 35 U.S.C. 103(a) as being unpatentable over Gavrilovich in view of U.S Patent No. 6,377,677 to Ackerley et al. (hereinafter "Ackerley"). The applicant respectfully disagrees.

As outlined hereinbefore, it is submitted that Gavrilovich does not disclose all the elements of claims 1, 33 and 40 on which claims 11-13, 30, 31, 38 and 43-46 depend, either directly or indirectly. The Examiner appears to merely cite Ackerley to illustrate that sending a congestion notification to a source of a misbehaved connection would have been obvious to one skilled in the art. However, the lack of disclosure of all the elements of claims 1, 33 and 40 means that neither Gavrilovich, nor Ackerley, nor a combination of Gavrilovich

and Ackerley can render claims 11-13, 30, 31, 38 and 43-46 obvious. Withdrawal of the rejection of claims 11-13, 30, 31, 38 and 43-46 over Ash in view of Ackerley is therefore respectfully requested.

Applicant respectfully requests that a timely Notice of Allowance be issued in the case.

Respectfully submitted,



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